IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY SECOND DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 24000 of 2004

Between:

Sanapala Rajulu S/o Mohan Rao
Korlakota Village, Amadalavalasa Mandal, Srikakulam District

..... PETITIONER

AND

1 The Revenue Divisional Officer(Civil Supplies) Srikakulam
2 The Mandal Revenue Officer (Civil Supplies) Amadalavalasa Mandal, Srikakulam District

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any Writ, order or direction particularly a Writ in the nature of Mandmaus declaring the action of the respondents as arbitrary, illegal and vioaltive of articles 14 19(1)(g) and 21 of the Constitution of India besides gross violation of Principles of Natural justice and proviso to(1) of Clause 8of A.P. Scheduled Commodities Dealers' (Licensing and Distribution) Order, 1982 and set a side the impugned procgs. Lr. No. 2896/2001-H dt 15/12/2004 of the 1st respondent and pass such other rrelief or relieves as this Hon'ble Court may deem fit, just and necessary in the circumstances of the case.

Counsel for the Petitioner:MR.B.M.PATRO

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court, at the stage of admission, made the following :

ORDER:

Petitioner was appointed as a fair price shop dealer of Shop No.2 of Korlakota Village, Amadalavalasa Mandal, Srikakulam District. He was issued a Show-Cause Notice on 07.01.2002, with certain allegations, by the 1st respondent. Petitioner submitted his explanation on 22.01.2002. The 1st respondent passed an order, dated 15.12.2004, cancelling the dealership of the petitioner, after recording findings that the charges levelled against the petitioner are proved. The same is challenged in this writ petition.

Learned counsel for the petitioner submits that the order is *ex facie* illegal, and no enquiry was held by the 1st respondent. It is also his contention that the explanation was submitted more than two years ago, and the proceedings were revived recently, on account of certain political pressures. He contends that the petitioner is entitled to approach this Court straight away, since the order is violative of principles of natural justice as well as specific provisions of the relevant Control Order. He placed reliance upon the Judgment of this Court in ***N.SADASIVA KUMAR V. THE DISTRICT COLLECTOR, KURNOOL*** and certain other decisions.

Learned Government Pleader for Civil Supplies, on the other hand, submits that the petitioner had an effective alternative remedy, by way of appeal, under Clause 20 of the A.P. State Public Distribution System Control Order, 2001, and the writ petition cannot +be entertained straight away.

In pursuance of a Show-Cause Notice issued way back in January 2002, the 1st respondent has cancelled the authorization of the petitioner on 15.12.2004. It is

difficult, at this stage, to look into the reasons for such delayed consideration of the matter. The 1st respondent did not issue any notice of hearing to the petitioner, after receiving the explanation, dated 22.01.2002. In ***N.SADASIVA KUMAR***'s case (1 supra), this Court took the view that failure to give a personal hearing to the affected party, after submission of explanation, would vitiate the proceedings. However, before any findings are recorded on these aspects, the necessary record needs to be verified by the appellate authority. In a given case, the appellate authority itself may rectify the illegalities, if any, committed by the appointing authority. Except where the order is passed by an authority not vested with the jurisdiction and in utter violation of principles of natural justice, writ petitions challenging such proceedings, cannot be entertained straight away.

In that view of the matter, the writ petition is disposed of leaving it open to the petitioner to avail the remedy of appeal against the impugned order. If such an appeal is presented, the appellate authority shall dispose of the same, within six weeks from the date of receipt of a copy of this order. No order as to costs.

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L.NARASIMHA REDDY, J

Dated : 22nd December, 2004

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To

1 The Revenue Divisional Officer(Civil Supplies) Srikakulam
2 The Mandal Revenue Officer (Civil Supplies) Amadalavalasa Mandal, Srikakulam District

3 2 CCs to the G.P. for Civil Supplies, High Court of A.P., Hyderabad (OUT).

4 2 CD copies.